**LACASSE & ASSOCIATES, LLC***PROFESSIONAL PATENT SERVICES*

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E-Mail: patserv@lacasse-patents.com**RECEIVED
CENTRAL FAX CENTER****MAY 25 2005****CONFIDENTIAL
FACSIMILE TRANSMITTAL SHEET****DATE SENT:** May 25, 2005**DELIVER TO:**Name: Douglas I. Wood, Esq.Company: USPTO; Office of PetitionsPhone No: 571-272-3231Fax No: 703-872-9306**FROM:** Randy W. Lacasse**RE:** USSN 09/898,379

THERE WILL BE A TOTAL OF **26** PAGE(S) INCLUDING THIS COVER SHEET.
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NOTES:

- TRANSMITTAL FORM
- RENEWED PETITION UNDER 37 CFR 1.137(a)
- EMPLOYEE STATEMENTS (3 DOCUMENTS)
- AMENDMENT

PTO/SB/21 (06-04)

Approved for use through 07/31/2006. OMB 0651-0031

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**TRANSMITTAL
FORM**

(To be used for all correspondence after initial filing)

Total Number of Pages in This Submission **25**

Application Number	09/898,378
Filing Date	July 5, 2001
First Named Inventor	Kovar et al.
Art Unit	2633
Examiner Name	Dzung D. Tran

Attorney Docket Number **10-342 US****ENCLOSURES (Check all that apply)**

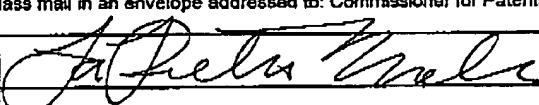
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Statements (3 documents)
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Lacasse & Associates, LLC		
Signature			
Printed name	Randy W. Lacasse		
Date	05/25/2005	Reg. No.	34,368

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature Typed or printed name **LaReiko Welch**Date **05/25/2005**

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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09/898,379

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Kovar et al.

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Serial No.: 09/898,379

Group Art Unit: 2633

MAY 25 2005

Filed: 7/5/2001

Examiner: DZUNG D. TRAN

Title: *Optical Modulator and Method for Polarization Bit Interleaving*RENEWED PETITION UNDER 37 CFR 1.137(a)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the decision mailed on May 13, 2005, we are submitting a renewed petition under 37 CFR 1.137 (a).

It was determined that the above application had become abandoned for failure to submit a response to an outstanding office action mailed June 7, 2004.

According to MPEP Section 711.03(c) "A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the bases for a showing of "unavoidable" delay, provided it is shown that: (A) the error was the cause of the delay at issue; (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

(A) Docketing errors, which occurred on or about June 7, 2004, prevented employees from Lacasse & Associates, LLC to be able to have the knowledge that the response to the office action mailed on 06/07/2004 was due, because the office action was never entered into the firm's

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case management software, which calculates all due dates and creates reminders for patent agents and administrative staff.

(B) After opening all incoming mail from the United States Patent and Trademark Office, the proper procedure for docketing incoming USPTO correspondence, specifically office actions, is as follows: (1) Log into CTS (our case management software); (2) while in CTS, search for our docket number by typing in the U.S. application number in the search form; (3) write our docket number on the envelope or a post-it note and attach it to the corresponding USPTO correspondence; (4) retrieve the file wrapper of the corresponding file from our record room; (5) write the mailing date of the office action on the front cover of the file wrapper; (6) return to CTS and access the office action screen of the corresponding case; (7) enter the mailing date from the front page of the office action into the "mailing date" field of the office action screen; (8) upon entering the mailing date at the office action screen, the software will prompt the user to enter the mailing date again in order to confirm the accuracy of the entry; (9) after entering the mailing date to confirm accuracy, the software generates two dates -- (a) the "Date Due", which is three months from the mailing date of the office action (two months if a final office action); and (b) the "Last Date to File", which is six months from the mailing date of the office action; (10) the user will be prompted to accept the dates; (11) after accepting the dates, the user then generates a letter to the client, notifying him of an office action; (12) the user then generates an amendment form for the patent agent to complete at a later date; (13) the employee makes two copies of the office action -- the original office action is sent to the client, one copy of the office action is hole-punched and placed in the incoming USPTO correspondence section of the file wrapper, and the other copy of the office action is placed in a working folder for the patent agent; (14) the employee then creates several labels for the patent agent's working folder indicating the following -- (a) our docket number for the case, (b) the two-month due date for the

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response to the office action, and (c) the three-month due date for the response to the office action; (15) the labels are placed on the front of the working folder and the copy of the office action is stamped with "COPY" on the front and placed in the working folder; (16) the employee gives the file wrapper to another employee who enters the following information into the shared "Patent Dept. Office Actions" task list in Microsoft Outlook -- the docket number, patent application title, client contact information, type of response needed, assigned patent agent initials, an indication of a "final" office action (if the office action is final), the due date, and the month of response for that due date; (17) the working folder and file wrapper are given to the appropriate patent secretary; (18) the patent secretary enters the due date on their personal desk or wall calendar; (19) the patent secretary enters the due date on the desk or wall calendar of the Assistant Manager of Administrative Services; and (20) finally, the working folder and file wrapper are given to the appropriate patent agent who will work on the response to the office action.

(C) The employee in charge of docketing all incoming patent prosecution work began her employment with our firm as a Patent Secretary on April 15, 2002. She was trained by a senior staff member, the Manager of Administrative Services, on the patent prosecution process and the importance of docketing and inputting correct dates into our case tracking software, CTS Version 5. She had been inputting information into our case tracking software for over a year and a half before being promoted to the position of Assistant Manager of Administrative Services. The Assistant Manager of Administrative Services was adequately trained to perform the duties of collecting the office mail, specifically U.S.P.T.O. mail for entering into the office database system for tracking USPTO correspondence. Said Assistant Manager performed these duties on a regular basis for almost a year and a half without fail, therefore there was no reason to doubt her competence.

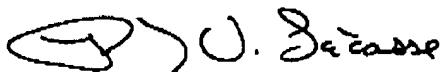
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Applicant has provided two signed statements from employees that can attest to the procedures for docketing incoming USPTO correspondence at Lacasse & Associates, LLC and to the competence of the Assistant Manager of Administrative Services. Applicant has also provided a signed statement from the former Assistant Manager of Administrative Services, Elizabeth A. Hein, indicating her responsibilities while in the position and affirming the fact that she did not properly docket the office action of June 7, 2004, resulting in abandonment of the application.

Applicant's representative is establishing unavoidable delay in submitting the required document based on docketing errors on or about June 7, 2004.

Applicant's representative respectfully requests that the above application be revived and the Petition for Unavoidable Delay be granted.

Respectfully submitted,



Randy W. Lacasse
Registration No. 34,368

1725 Duke Street
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(703) 838-7683
May 25, 2005